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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,790	08/25/2003	Cheng - Hui Hsu	MR1715-75	1230
4586	7590	03/11/2004	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			GUADALUPE, YARITZA	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,790

Applicant(s)

HSU, CHENG - HUI

Examiner

Yaritza Guadalupe

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khachatoorian (US 6,276,071) in view of Murray (US 6,449,866).

Khachatoorian discloses a tape rule housing (12) comprising a half left (14) case, a recess in its upper edge (between opening 58 and rear surface 28), an upward extending portion plate along the inner side and center of the recess, said half left case having a recess in the lower edge(along wall surface 24); a soft rubber material (N1, N2) being molded using a double injection molding process (See Column 8, lines 45 – 67), wherein a rubber pad is formed around the lower edge recess of the half left case (See Figure 1), the outer periphery of said rubber pads consisting of a plurality of evenly arrayed rib elements. Khachatoorian also discloses a half right case having a recess in its upper edge, an upward extending portion plate along the inner side and center of the recess, said half right case having a recess in the lower edge; a soft rubber material is molded, wherein a rubber pad is formed around the lower edge recess of the

half right case, the outer periphery of said rubber pads consisting of a plurality of evenly arrayed rib elements.

Khachatoorian does not disclose the housing made of plastic as stated in claim 1.

Regarding to claim 1 : Khachatoorian discloses a tape housing as stated above, but does not discloses the particular material used to make the housing. Murray discloses a tape housing made of molded plastic. The particular type of material used to make the disk, absent any criticality, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a housing made of plastic as taught by Murray in order to reduce production costs by utilizing the same material for producing and manufacturing the housing and the molded rubber pads in a single double injection molding process.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

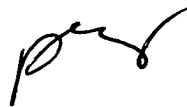
- a. Lin (US 6,182,916
- b. Donaldson et al. (US 6,484,412)
- c. Drechsler (US 4,574,486)
- d. Lee et al. (US 6,691,426)
- e. Li (US 6,148,534)

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe
Patent Examiner
Art Unit 2859
March 3, 2004

DIEGO F.F. GUTIERREZ
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2800